IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION No.5007 OF 2006.

Mumbai Labour Union. Petitioner.

Vs.

M/s.Nilmac Packaging Industry
Ltd. and Ors.

Mrs.Neeta Karnik, Advocate for Petitioner.

Mr. R.V. Paranjape,Advocate
for Respondent No.1.

CORAM:R.M.S.KHANDEPARKAR,J.
DATED:15TH NOVEMBER, 2006.

P.C.:-

1. Heard.

2. The petitioner challenges order dated 28th of April, 2006 whereby the Commissioner of Labour, Mumbai has rejected the Review Application filed by the petitioner for review of the order dated 15th December, 2005 in the matter of closure of the Respondent Undertaking. The challenge is on the ground that inspite of the fact that the petitioner had disputed claim of the Respondent about the losses, the Authority proceeded on assumption that there was no dispute about the financial position of the Undertaking and therefore it

warrants interference in Writ Jurisdiction.

3. Drawing attention to the decision of the Apex Court in **M/s.Unichem Laboratories Ltd. Vs. Workmen reported in 1972 (1) I.L.L.J. 576**, it is sought to be contended on behalf of the petitioner that for the purpose of computing the profits, the depreciation and other reserves cannot be deducted. The learned Advocate appearing for the respondent, on the other hand, has submitted all the contentions sought to be raised including the contention regarding the dispute pertaining to the claim of the Company about the loss having been sustained, have been duly considered by the Authority while taking into consideration balance-sheet of the Company.

4. As regards the point relating to the financial loss to the Company, undoubtedly, the Commissioner of Labour has taken into consideration all the materials which were referred to by the parties including the Balance-sheet and it has been specifically observed that the same has been prepared following the usual norms which are required to be followed while preparing the

Balance-sheet. It is pertinent to note that apart from merely alleging that the Balance-sheet does not show the figures correctly and while computing the loss the depreciation value has also been considered, it was not demonstrated, in any manner, as to how and why the Balance sheet could not be relied upon. It is not in dispute that the Accounts were audited and Balance-sheet was prepared in accordance with the prescribed norms.A reference to the decision of the Apex Court, while contending that depreciation value could not have been considered for the purpose of ascertaining the norms, is of no help to the petitioner. It was not in relation to the factors to be considered by the Authority while granting sanction for the closure of the Undertaking. In any case, as rightly pointed out by the learned Advocate for the respondent, 79 workers, out of hundred workers, have already accepted the settlement, it is only 21 workers who have refused to accept the settlement. In fact, the Authority has clearly observed that the petitioners have not been able to find out any material which could convince the competent Authority to review its earlier order regarding the closure

of the Undertaking which was permitted by the earlier order. While arriving at the said finding, the authority has taken into consideration all the materials on record including the financial position and whatever evidence which was sought to be produced by the parties in relation to rival the contentions raised in that regard. The impugned order does not disclose any jurisdictional error nor failure on the part of the Authority to consider any vital or relevant material on record Being so, there is no case made out for interference in the impugned order in writ jurisdiction and hence the petition is rejected.

[R.M.S.KHANDEPARKAR,J]